

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
FILE NO. 5:13 CT 3291-D

MICHAEL ANTOHNY DILWORTH,)
Plaintiff)
)
vs.)
)
ED MCMAHON, et al,)
Defendants)

ANSWER AND DEFENSES

NOW COME Defendants, by and through undersigned counsel, responding to the allegations raised in Plaintiff's Complaint and hereby allege and say as follows:

FIRST AFFIRMATIVE DEFENSE
Qualified Immunity

Defendants hereby plead qualified immunity as an affirmative defense and as a complete and total bar to the claims against them in Plaintiff's Complaint.

SECOND AFFIRMATIVE DEFENSE
Sovereign/Governmental Immunity

Defendants hereby plead sovereign and/or governmental immunity as an affirmative defense and as a complete and total bar to the claims against them in Plaintiff's Complaint.

THIRD AFFIRMATIVE DEFENSE
Legitimate Penological Interests

Defendants hereby plead the legitimate penological interest involved in all actions taken relative to Plaintiff as an affirmative defense and as a complete and total bar to the claims against them in Plaintiff's Complaint.

FOURTH AFFIRMATIVE DEFENSE
Plaintiff's Own Wrongful Conduct

Defendants hereby plead the wrongful conduct of the Plaintiff as an affirmative defense and as a complete and total bar to the claims against them in Plaintiff's Complaint.

ANSWER

As to the allegations contained in Plaintiff's Complaint, it is admitted that Plaintiff was an inmate at the New Hanover County Detention Center, and was booked into the jail on or about February 12, 2013. It is further admitted that Plaintiff was involved in several altercations while at the jail, including an altercation with two detention officers in July of 2013. It is admitted that Plaintiff was disciplined as a result of his conduct on several occasions while at the New Hanover County Jail. It is specifically denied that any of the Defendants herein violated any of the constitutional or other rights of the Plaintiff at any time during his incarceration or otherwise. It is further denied that Defendants are liable to the Plaintiff in any way for any actions or incidents arising out of and during the course of his incarceration at the New Hanover County Jail. All allegations in Plaintiff's Complaint which were permitted to move forward by the frivolity orders of this Court, and which are not otherwise admitted hereinabove, are hereby denied.

WHEREFORE, Defendants request the following relief from this Court:

1. That the Plaintiff have and recover nothing of the Defendants;
2. That the Plaintiff's Complaint be dismissed, and the costs of this action be taxed to the Plaintiff;
3. That Defendants recover attorney's fees from Plaintiffs pursuant to 42 U.S.C. §1988; and,
4. For such other and further relief as this Court may deem just and proper.

Respectfully submitted this 23rd day of September, 2014.

By: /s/Scott C. Hart
State Bar No. 19060
Attorneys for Defendants
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the **ANSWER AND DEFENSES** was served upon counsel of record by depositing the same in a postpaid wrapper in an official depository under the exclusive care and custody of the United States Postal Service, New Bern, North Carolina, and addressed to:

Michael Anthony Dilworth
Inmate #0108372
Marion Correctional Center
Post Office Box 2405
Marion, NC 28752

This the 23rd day of September, 2014.

By: /s/Scott C. Hart
 State Bar No. 19060
 Attorneys for Defendants
 Sumrell, Sugg, Carmichael, Hicks & Hart, P.A.
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